

KEVIN V. RYAN (CSBN 118321)
United States Attorney
450 Golden Gate Ave (11th Floor)
San Francisco, CA 94102
Telephone: (415) 436-7200

FILING

FILED

FEB 21 2007

Attorneys for the United States

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Michael J. Marrick
Defendant.

CRIMINAL NO. 0207-70106H2L

NOTICE OF PROCEEDINGS ON
OUT-OF-DISTRICT CRIMINAL
CHARGES PURSUANT TO RULES
5(c)(2) AND (3) OF THE FEDERAL RULES
OF CRIMINAL PROCEDURE

Please take notice pursuant to Rules 5(c)(2) and (3) of the Federal Rules of Criminal
Procedure that on 2/21/07, the above-named defendant was arrested based upon an
arrest warrant (copy attached) issued upon an

☐ Indictment ☐ Information ☒ Criminal Complaint ☐ Other _____
pending in the Western District of New York, Case Number 02-M-125

In that case, the defendant is charged with a violation(s) of Title(s) 8 United States Code,
Section(s) 1325(a)

Description of Charges: Eluding inspection and examination
by immigration officers.

Respectfully Submitted,
KEVIN V. RYAN
UNITED STATES ATTORNEY

Date: 2/21/07

TOM O'Connell
Assistant U.S. Attorney

AO 442 (Rev. 5/93) Warrant for Arrest

United States District Court

WESTERN

DISTRICT OF

NEW YORK

UNITED STATES OF AMERICA

v.

MICHAEL J. MARRICK

WARRANT FOR ARREST

CASE NUMBER: 02-m-125

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest MICHAEL J. MARRICK

Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

() Indictment () Information (X) Complaint () Order of Court () Violation Notice () Probation
Violation Petition

charging him or her with:

eluding inspection and examination by immigration officers
(brief description of offense)

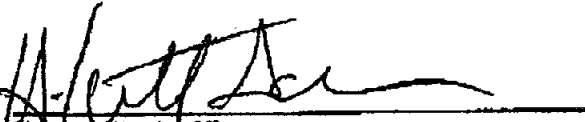
in violation of Title 8 United States Code, Section 1325 (a) (2)

HON. H. KENNETH SCHROEDER, JR.

Name of Issuing Officer

U.S. MAGISTRATE JUDGE

Title of Issuing Officer


Signature of Issuing Officer

September 20, 2007 Buffalo, N.Y.
Date and Location

Bail fixed at \$ _____ by _____
Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

AO 442 (Rev. 5/93) Warrant for Arrest

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

WESTERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT
WD OF NY

SEP 26 2002

UNITED STATES OF AMERICA

v.

MICHAEL J. MARRICK,

CRIMINAL COMPLAINT

AT _____ D/C _____ M.
BY _____
TITLE _____

CASE NUMBER: 02-m-125

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

On or about September 8, 2002 in Niagara County, in the Western District of New York, Defendant did

did elude examination and inspection by Immigration officers

in violation of Title 8, United States Code, Section 1325(a). I further state that I am a(n) Senior Inspector of the United States Immigration and Naturalization Service and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: (✓) Yes () No



RAYMOND J. ECKERT
Signature of Complainant

Sworn to before me and subscribed in my presence,

September 26, 2002
Date

at

Buffalo, New York
City and State

HON. H. KENNETH SCHROEDER, U.S. MAG. JUDGE
Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

Raymond J. Eckert, being duly sworn, deposes and states:

1. I am a Senior Immigration Inspector with the United States Immigration and Naturalization Service ("INS") and have been for the past eleven years. As part of my current duties, I investigate suspected illegal entries by persons into the United States in violation of Title 8, United States Code, Section 1325.

2. I make this affidavit in support of a criminal complaint charging MICHAEL J. MARRICK with eluding inspection and examination by immigration officers in violation of Title 8, United States Code, Sections 1325(a)(2).

3. On September 8, 2002 at approximately 2:30 p.m., a citizen of Australia by the name of MICHAEL J. MARRICK ("MARRICK") sought entry into the United States from Canada as the operator of an automobile bearing New York license plate AWF-4188. MARRICK was referred to INS secondary inspection where he was processed for refusal of admission.

4. I personally participated in some of the administrative processing of MARRICK, although INS Inspector Marc Harrishburg did most of the processing. During the processing, MARRICK was fingerprinted, photographed, and questioned concerning his purpose for seeking entry to the United States. Inspector

Harrishburg determined that MARRICK did not qualify for entry to the United States under Section 217 of the Immigration and Nationality Act, which allows for nationals of certain countries, including Australia, to seek entry to the United States without a visitor visa. Inspector Harrishburg advised MARRICK of this decision and advised him that he would have to obtain a visitor's visa before again seeking entry to the United States.

5. I departed the port at approximately 4:00 p.m. that day. At approximately 5:00 p.m., Inspector Harrishburg attempted to return MARRICK to Canada. During this process, MARRICK was escorted to his vehicle and directed to drive the vehicle to a point where he could then be directed to the Canadian side of the border. Before MARRICK could be directed back to Canada, he fled the port by driving his vehicle into the United States. He left behind his Australian passport.

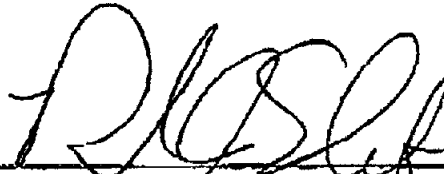
6. The United States Border Patrol and Niagara Falls Police were notified that MARRICK had entered the country illegally, but did not apprehend him.

7. On September 9, 2002, Inspector Harrishburg notified me that MARRICK had absconded into the United States before the completion of his inspection. Inspector Harrishburg provided MARRICK's U.S. Immigration file, which was opened on September 8, 2002, and MARRICK's Australian passport to me.

8. Since receiving this information on MARRICK, my

investigation confirms that he violated the terms of his prior admission to the United States by staying in the United States beyond the authorized date and that he eluded the completion of his inspection by absconding into the United States.

Wherefore, I respectfully submit the foregoing facts to establish probable cause to believe that on or about September 8, 2002, MICHAEL J. MARRICK did elude inspection and examination by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2).


RAYMOND J. ECKERT, Senior Inspector

Sworn to and subscribed to before
me this 24th day of September 2002.


ROY. H. KENNETH SCHROEDER, Jr.
UNITED STATES MAGISTRATE JUDGE